

110TH CONGRESS
1ST SESSION

H. R. 2370

To amend the Internal Revenue Code of 1986 to provide for the establishment of financial security accounts for the care of family members with disabilities.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2007

Mr. CRENSHAW (for himself, Mr. MEEK of Florida, Mr. CAMP of Michigan, Mr. SESSIONS, Mr. TOM DAVIS of Virginia, Mr. RAMSTAD, Mrs. BONO, Mr. MACK, Ms. CORRINE BROWN of Florida, Mr. PUTNAM, and Mr. WEXLER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide for the establishment of financial security accounts for the care of family members with disabilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Financial Security Ac-
5 counts for Individuals with Disabilities Act of 2007”.

1 **SEC. 2. FINANCIAL SECURITY ACCOUNTS FOR INDIVIDUALS**
 2 **WITH DISABILITIES.**

3 (a) IN GENERAL.—Subchapter F of chapter 1 of the
 4 Internal Revenue Code of 1986 (relating to exempt organi-
 5 zations) is amended by inserting after part VIII the fol-
 6 lowing new part:

7 **“PART IX—SAVINGS FOR INDIVIDUALS WITH**
 8 **DISABILITIES**

“Sec. 530A. Financial security accounts for individuals with disabilities.

9 **“SEC. 530A. FINANCIAL SECURITY ACCOUNTS FOR INDIVID-**
 10 **UALS WITH DISABILITIES.**

11 “(a) GENERAL RULE.—A financial security account
 12 for an individual with a disability shall be exempt from
 13 taxation under this subtitle. Notwithstanding the pre-
 14 ceding sentence, such account shall be subject to the taxes
 15 imposed by section 511 (relating to imposition of tax on
 16 unrelated business income of charitable organizations).

17 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
 18 poses of this section—

19 “(1) FINANCIAL SECURITY ACCOUNT FOR AN
 20 INDIVIDUAL WITH A DISABILITY.—The term ‘finan-
 21 cial security account for an individual with a dis-
 22 ability’ means a trust created or organized in the
 23 United States (and designated as a financial security
 24 account for an individual with a disability at the
 25 time created or organized) exclusively for the pur-

pose of paying qualified disability expenses of an individual who is disabled and who is the designated beneficiary of the trust, but only if the written governing instrument creating the trust meets the following requirements:

“(A) No contribution will be accepted—

“(i) unless it is in cash, and

“(ii) except in the case of rollover contributions described in subsection (c)(4), if such contribution would result in aggregate contributions for the taxable year and all preceding taxable years exceeding \$500,000.

“(B) The trustee is a bank (as defined in section 408(n)), a parent or guardian of the designated beneficiary, a designee of a parent or guardian of the designated beneficiary, the designated beneficiary, or another person, who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

“(C) No part of the trust assets will be invested in life insurance contracts.

1 “(D) The assets of the trust shall not be
2 commingled with other property except in a
3 common trust fund or common investment
4 fund.

5 “(2) QUALIFIED DISABILITY EXPENSES.—The
6 term ‘qualified disability expenses’ means, with re-
7 spect to an individual with a disability, amounts paid
8 or incurred, not compensated for by insurance or
9 otherwise, for—

10 “(A) education, medical and dental care,
11 community based support services, employment
12 training and support, moving, and assistive
13 technology,

14 “(B) after the designated beneficiary has
15 attained the age of 18, housing and transpor-
16 tation, and

17 “(C) funeral and burial services and prop-
18 erty.

19 “(3) INDIVIDUAL WITH A DISABILITY.—An in-
20 dividual is an individual with a disability if such in-
21 dividual is receiving supplemental security income
22 benefits under title XVI of the Social Security Act
23 or an individual otherwise eligible to receive such
24 benefits notwithstanding the income and assets tests
25 required for eligibility for such benefits.

1 “(4) RULES RELATING TO ESTATE AND GIFT
2 TAX.—Rules similar to the rules of paragraphs (2),
3 (4), and (5) of section 529(c) shall apply for pur-
4 poses of this section.

5 “(c) TAX TREATMENT OF DISTRIBUTIONS.—

6 “(1) IN GENERAL.—Except as otherwise pro-
7 vided in this subsection, any amount paid or distrib-
8 uted out of a financial security account for an indi-
9 vidual with a disability shall be included in gross in-
10 come by the payee or distributee, as the case may
11 be, for the taxable year in which received in the
12 manner as provided in section 72.

13 “(2) DISTRIBUTIONS FOR BENEFIT OF DES-
14 IGNATED BENEFICIARY.—

15 “(A) IN GENERAL.—No amount shall be
16 includible in gross income under paragraph (1)
17 if the qualified disability expenses of the des-
18 ignated beneficiary during the taxable year are
19 not less than the aggregate distributions during
20 the taxable year.

21 “(B) DISTRIBUTIONS IN EXCESS OF EX-
22 PENSES.—If such aggregate distributions ex-
23 ceed such expenses during the taxable year, the
24 amount otherwise includible in gross income
25 under paragraph (1) shall be reduced by the

1 amount which bears the same ratio to the
2 amount which would be includible in gross in-
3 come under paragraph (1) (without regard to
4 this subparagraph) as the qualified disability
5 expenses bear to such aggregate distributions.

6 “(C) DISALLOWANCE OF EXCLUDED
7 AMOUNTS AS DEDUCTION, CREDIT, OR EXCLU-
8 SION.—No deduction, credit, or exclusion shall
9 be allowed to the taxpayer under any other sec-
10 tion of this chapter for any qualified disability
11 expenses to the extent taken into account in de-
12 termining the amount of the exclusion under
13 this paragraph.

14 “(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT
15 USED FOR BENEFIT OF DESIGNATED BENE-
16 FICIARY.—

17 “(A) IN GENERAL.—The tax imposed by
18 this chapter for any taxable year on any tax-
19 payer who receives a payment or distribution
20 from a financial security account for an indi-
21 vidual with a disability shall be increased by 10
22 percent of the amount thereof which is includ-
23 ible in gross income under paragraph (1).

24 “(B) EXCEPTION.—Subparagraph (A)
25 shall not apply if the payment or distribution is

made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary.

“(C) CONTRIBUTIONS RETURNED BEFORE CERTAIN DATE.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year if—

“(i) such distribution is made before the first day of the sixth month of the taxable year following the taxable year, and

“(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in gross income for the taxable year in which such excess contribution was made.

“(4) ROLLOVERS.—Paragraph (1) shall not apply to any amount paid or distributed from a financial security account for an individual with a disability to the extent that the amount received is paid, not later than the 60th day after the date of such payment or distribution, into another financial security account for an individual with a disability for the benefit of the same beneficiary. The preceding sentence shall not apply to any payment or

1 distribution if it applied to any prior payment or dis-
2 tribution during the 12-month period ending on the
3 date of the payment or distribution.

4 “(5) CHANGE IN BENEFICIARY.—Any change in
5 the beneficiary of a financial security account for an
6 individual with a disability shall not be treated as a
7 distribution for purposes of paragraph (1) if the new
8 beneficiary is disabled and is a member of the family
9 (as defined in section 529(e)(2)) of the old bene-
10 ficiary.

11 “(d) TAX TREATMENT OF ACCOUNTS.—Rules similar
12 to the rules of paragraphs (2) and (4) of section 408(e)
13 shall apply to any financial security account for an indi-
14 vidual with a disability.

15 “(e) COMMUNITY PROPERTY LAWS.—This section
16 shall be applied without regard to any community property
17 laws.

18 “(f) CUSTODIAL ACCOUNTS.—For purposes of this
19 section, a custodial account shall be treated as a trust if—

20 “(1) the assets of such account are held by a
21 bank (as defined in section 408(n) or another person
22 who demonstrates, to the satisfaction of the Sec-
23 retary, that the manner in which he will administer
24 the account will be consistent with the requirements
25 of this section, and

1 “(2) the custodial account would, except for the
2 fact that it is not a trust, constitute an account de-
3 scribed in subsection (c)(1).

4 For purposes of this title, in the case of a custodial ac-
5 count treated as a trust by reason of the preceding sen-
6 tence, the custodian of such account shall be treated as
7 the trustee thereof.

8 “(g) REPORTS.—The trustee of a financial security
9 account for an individual with a disability shall make such
10 reports regarding such account to the Secretary and to
11 the beneficiary of the account with respect to contribu-
12 tions, distributions, and such other matters as the Sec-
13 retary may require. The reports required by this sub-
14 section shall be filed at such time and in such manner
15 and furnished to such individuals at such time and in such
16 manner as may be required.

17 “(h) COORDINATION WITH MEANS-TESTED PRO-
18 GRAMS.—Amounts held by, or paid or distributed from,
19 a financial security account for an individual with a dis-
20 ability shall not be treated as income or assets, and shall
21 not be taken into account in determining eligibility for,
22 or the amount or extent of, benefits provided by any pro-
23 gram funded in whole or in part with Federal funds.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) PENALTY FOR FAILURE TO MEET MINIMUM
2 DISTRIBUTION REQUIREMENT.—Subsection (c) of
3 section 4974 of such Code is amended by striking
4 “or” at the end of paragraph (4), by striking the pe-
5 riod at the end of paragraph (5) and inserting “,
6 or”, and by inserting after paragraph (5) the fol-
7 lowing new paragraph:

8 “(6) any financial security account for an indi-
9 vidual with a disability (as defined in section
10 530A(b)).”.

11 (2) TAX ON PROHIBITED TRANSACTIONS.—

12 (A) IN GENERAL.—Paragraph (1) of sec-
13 tion 4975(e) of such Code (defining plan) is
14 amended by redesignating subparagraph (G) as
15 subparagraph (H), by striking “or” at the end
16 of subparagraph (F), and by adding after sub-
17 paragraph (F) the following:

18 “(G) a financial security account for an in-
19 dividual with a disability described in section
20 530A, or”.

21 (B) EXEMPTION.—Subsection (d) of sec-
22 tion 4975 of such Code (relating to exemptions)
23 is amended by striking “or” at the end of para-
24 graph (22), by striking the period at the end of

1 paragraph (23) and inserting “; or”, and by in-
2 serting after paragraph (23) the following:

3 “(24) in the case of a financial security account
4 for an individual with a disability, any transaction to
5 provide housing or other services by a family mem-
6 ber to or for the designated beneficiary of the trust
7 to the extent that such transaction does not exceed
8 the fair market value of the housing or service (as
9 the case may be) provided.”.

10 (C) SPECIAL RULE.—Subsection (c) of sec-
11 tion 4975 of such Code (relating to tax on pro-
12 hibited transactions) is amended by adding at
13 the end the following new paragraph:

14 “(7) SPECIAL RULE FOR FINANCIAL SECURITY
15 ACCOUNT FOR INDIVIDUALS WITH DISABILITIES.—
16 An individual for whose benefit a financial security
17 account for an individual with a disability is estab-
18 lished and any contributor to such account shall be
19 exempt from the tax imposed by this section with re-
20 spect to any transaction concerning such account
21 (which would otherwise be taxable under this sec-
22 tion) if section 530A(d) applies with respect to such
23 transaction.”.

24 (3) ROLLOVERS FROM QUALIFIED TUITION
25 PROGRAMS AND EDUCATION SAVINGS ACCOUNTS.—

1 (A) QUALIFIED TUITION PROGRAMS.—
2 Paragraph (3) of section 529(c) of such Code is
3 amended by adding at the end the following
4 new subparagraph:

5 “(E) CONTRIBUTIONS TO FINANCIAL SE-
6 CURITY ACCOUNT FOR AN INDIVIDUAL WITH A
7 DISABILITY.—Subparagraph (A) shall not apply
8 to that portion of any distribution which, within
9 60 days of such distribution, is contributed to
10 a financial security account for an individual
11 with a disability for the benefit of the des-
12 ignated beneficiary.”.

13 (B) EDUCATION SAVINGS ACCOUNT.—Sub-
14 section (d) of section 530 of such Code is
15 amended by adding at the end the following
16 new paragraph:

17 “(9) CONTRIBUTIONS TO FINANCIAL SECURITY
18 ACCOUNT FOR AN INDIVIDUAL WITH A DIS-
19 ABILITY.—Paragraph (1) shall not apply to any
20 amount paid or distributed from a Coverdell edu-
21 cation savings account to the extent that the amount
22 received is paid, not later than the 60th day after
23 the date of such payment or distribution, into a fi-
24 nancial security account for an individual with a dis-
25 ability for the benefit of the same beneficiary.”.

1 (4) REPORTS.—Paragraph (2) of section
 2 6693(a) of such Code is amended by striking “and”
 3 at the end of subparagraph (D), by striking the pe-
 4 riod at the end of subparagraph (E) and inserting
 5 “and”, and by inserting after subparagraph (E) the
 6 following new subparagraph:

7 “(F) section 530A(g) (relating to financial
 8 security accounts for individuals with disabil-
 9 ities).”.

10 (5) EXCLUSION FROM INCOME.—Subsection (b)
 11 of section 1612 of the Social Security Act (42
 12 U.S.C. 1382a) is amended by striking “or” at the
 13 end of paragraph (22), by striking the period at the
 14 end of paragraph (23) and inserting “; or”, and by
 15 inserting after paragraph (23) the following:

16 “(24) any contribution to a financial security
 17 account for an individual with a disability.”.

18 (c) CLERICAL AMENDMENT.—The table of parts for
 19 subchapter F of chapter 1 of such Code is amended by
 20 inserting after the item relating to part VIII the following
 21 new item:

 “PART IX. SAVINGS FOR INDIVIDUALS WITH DISABILITIES.”.

22 (d) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to taxable years beginning after
 24 December 31, 2006.

